

Remarks/Arguments:

Pending in the application at the time of Decision on Appeal dated September 1, 2009 and the Office Action dated October 18, 2005 were claims 1, 3, 5, 7-25, 29-30, 32-47, and 54-73. By this amendment, Applicant has (1) amended independent claims 1, 24, 46, 54, 65 and 71, and (2) added new claims 74-85. No new matter is present. The pending claims are now claims 1, 3, 5, 7-25, 29-30, 32-47, and 54-85.

In the Decision on Appeal, the Board of Patent Appeals and Interferences (BPAI) based its affirmation of the prior claim rejections on its broad reading of the claim term "advertisement" such that the claim term "advertisement" was sufficiently broad to read on Ragsdale-Elliott's menu item photo-images. (See Decision on Appeal; p. 7-8). From this broad interpretation, the BPAI further affirmed the Office Action's finding that Ragsdale-Elliott disclosed the recited "advertisement selection program" by allegedly disclosing a program that selects menu item photo-images for download from a server. (See Decision on Appeal; p. 8). While Applicant disagrees with these conclusions, for the purpose of advancing examination, Applicant has amended the claims such that the advertising recited by the claims cannot reasonably be interpreted to encompass Ragsdale-Elliott's photo-images of menu items.

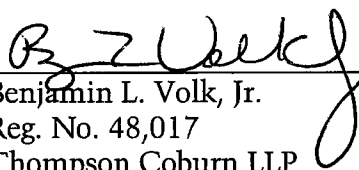
For example, claim 1 now recites that the advertisements displayed on the patron station and selected by the advertisement selection program comprise "advertisements that advertise a product or service of at least one entity other than the establishment". Exemplary support for this limitation can be found throughout Applicant's specification. (See, e.g., Specification at p. 5, lines 8-18; p. 6, lines 23-25; p. 7, lines 10-14; p. 9, lines 12-20). As such, amended claim 1 is not anticipated by Ragsdale-Elliott because Ragsdale-Elliott fails to disclose an "advertisement selection program" as recited in claim 1 that selects advertisements from outside entities such as advertisers. Instead, the alleged selection program of Ragsdale-Elliott merely selects the photo-images of the establishment's own menu items. Independent claims 24, 46, 54 and 71 have been similarly amended and are also patentable over the cited references for the same reason. Furthermore, amended independent claim 65 recites both locally-initiated and nonlocally-initiated advertisements (from the perspective of the establishment) "that advertise a product or service of at least one entity other than the establishment". Applicant respectfully submits that Ragsdale fails to disclose the display of such advertisements on its patron stations and thus fails to anticipate claim 65.

Furthermore, new independent claim 74 recites that the "advertisements" for display on the patron station are "advertisements advertising at least one product or service or at least one entity other than the establishment", wherein the display of such advertisements on a patron station following their selection by the "advertisement selection program" serves to "generate advertising revenue from an advertiser". As explained in the specification, the invention defined by claim 74 provides value because the advertising revenue created by the claimed invention's targeted advertising technique will make the deployment of interactive touchscreen patron stations in establishments more economically feasible. (See Specification; p. 5, lines 8-18; p. 9, lines 9-20). By contrast, Ragsdale-Elliott's photo-images of menu items do not create any advertising revenue (because they would emanate from the establishment and not an advertiser). Moreover, Ragsdale-Elliott fails to disclose an "advertisement selection program" as recited in claim 74 that enables the targeted delivery of advertiser's advertisements to patrons. Instead, Ragsdale-Elliott merely discloses that a program can select photo-images of menu items for download, an activity that does not create or enable a targeted advertising technique that will generate revenue from advertisers. Due to this shortcoming in Ragsdale-Elliott (whose shortcomings the other cited references fail to bridge), Applicant respectfully submits that claim 74 is patentable over the cited references. Furthermore, Applicant respectfully submits that new independent claims 77, 80, 81, 83 and 84 are patentable for similar reasons.

Conclusion

For the foregoing reasons, Applicant respectfully submits that the pending claims are allowable. Favorable action is respectfully requested.

Respectfully submitted,


Benjamin L. Volk, Jr.
Reg. No. 48,017
Thompson Coburn LLP
One US Bank Plaza
St. Louis, Missouri 63101
(314) 552-6000
(314) 552-7000 (fax)